

Internal Revenue Service
Director, Exempt Organizations

Department of the Treasury
P.O. Box 2508 - EP/EO
Cincinnati, OH 45201

Date: SEP 07 2001

Employer Identification Number:

Date:

Person to Contact - I.D. Number:

Contact Telephone Numbers:

5

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

The evidence presented disclosed that the organization was incorporated on [REDACTED]

The purposes for which the corporation was formed as stated in the Articles of Incorporation is organized for the social welfare, and civil peace of the community. More especially to create a [REDACTED]

The information submitted with your application 1023 indicates that the activities of the organization would include the following:

e general public:
organization, as
fund other
s established.
organization's
e. The [REDACTED]
d to cover the
.. At 1 [REDACTED]
is activity. You
1, 2001. This
[REDACTED]
cers of your

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

[REDACTED]

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

☐ Agent
☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)

[REDACTED] will also be establishing a "[REDACTED]" and this Fund will provide funds to cover costs of adequate day care for parents making the transition from welfare to work, and also for parents attending school. This Fund will be funded through proceeds acquired [REDACTED] as well as charitable contributions made by the public and private sponsors.

[REDACTED] time will be dedicated towards building up [REDACTED] and the Funds will be conducted by the Officer's of [REDACTED]

In addition, you will sponsor educational and back to school rallies for students of all ages, and at these rallies back packs, school supplies, and other educational materials will be given to students to help further their education. These rallies are slated to begin in [REDACTED] and 10% of the organization's time will be spent developing these Rallies. Your officers will organize and conduct these educational rallies.

You state that your sources of financial support on your application 1023 will be [REDACTED] and this (at least initially) will be the primary source of support. You will also receive donations, gifts, and charitable contributions from both public and private sponsors, and will also conduct periodic fund raisers to assist in covering the costs associated with operating the programs which you are dedicated towards sponsoring.

Your fundraising programs have consisted of asking for donations and from membership dues. Planned fundraisers include raffles, sales, etc.

In your correspondence letter dated, April 10, 2001, you state that you are being operated from a home residence located at [REDACTED]. You also state there is a [REDACTED] where the [REDACTED] however, you are presently searching for a building in the [REDACTED] where you can move your headquarters. This building will contain no less than 8 rooms and a large lot where [REDACTED]. This facility will initially be managed by one of the officers of the organization, until such time as a project manager may be hired. The building will be financed through donations made by the general public as well as private sponsors, gifts, fundraisers, charitable contributions, and finances generated from [REDACTED]. The hours of operation will be from 5:30 a.m. until 12:00 a.m.

You state that your [REDACTED] are distinguishable from those of a for-profit enterprise mainly because "all" of your fees are being utilized to create "charitable programs" for the organization. You

[REDACTED]
[REDACTED]
also state that since no monies generated from this service will inure to the benefit of any person or officer associated with organization, you are able to charge the most reasonable fees associated with this kind of service.

You have stated the fees were calculated to cover the costs of operational fees, as well as to cover the cost of maintaining your headquarters and to established your [REDACTED]. Also stated was that any additional revenue generated will go towards sponsoring the back to school rally and the [REDACTED] and therefore, the fees charged will not cover the total cost of maintaining the organization. You state you will also be depending on gifts, cash donations, contributions, from the public and private sector, and other donations just to fulfill the aims and objectives of the organization.

Section 501(c)(3) of the Internal Revenue Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes; no part of the net earnings of the organization inures to the benefit of any private shareholder or individual.

In order to qualify under Internal Revenue Code 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more of the purposes specified in the Code Section. If the organization fails to meet either the organizational test or operational test, it is not exempt (Reg. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit the purposes of such organization to one or more exempt purposes; and do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(1)(ii) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement

[REDACTED]

of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of section 501(c)(3) of the Internal Revenue Code may qualify under this section.

In Revenue Ruling 77-246, 1977-2 C.B. 190, a bus transportation for senior citizens and handicapped was held to be exempt under Section 501(c)(3). A nonprofit organization that provides, upon request, low cost bus transportation to senior citizens and handicapped persons in a community where public transportation is unavailable or inadequate qualifies for exemption under section 501(c)(3) of the Code as operated exclusively for charitable purposes.

In Revenue Ruling 77-164, 1977-2 C.B. 223, a church-controlled commercial printing corporation whose business earnings are paid periodically to the church, but which has no other significant charitable activity, was held to be a feeder organization as described in section 502 of the Code and does not qualify for exemption under section 501(c)(3) of the Code.

In Better Business Bureau of Washington, D.C., Inc. v. United States, 348 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Internal Revenue Code, regardless of the manner or importance of the truly exempt purposes.

Your organization is unlike the organization described in Revenue Ruling 77-246, because the organization in the revenue ruling was formed to provide bus transportation only to senior citizens and handicapped at low cost in a community where public transportation is unavailable or inadequate. Your organization, in contrast, provides [REDACTED] to all members of the general public for a fee, which we consider to be a trade or business.

In addition, your organization is similar to the organization described in Revenue Ruling 77-164 in that you are essentially operating a trade or business by providing [REDACTED] for a fee, and the remaining proceeds are contributed to other charitable activities. Such services for a fee does not qualify for exemption under Internal Revenue Code 501(c)(3).

[REDACTED]

An organization is not exempt merely because its operations are not conducted for the purposes of producing a profit. To satisfy the "operational test" the organization's resources must be devoted to purposes that qualify as exclusively charitable within the meaning of section 501(c)(3) of the Internal Revenue Code and applicable Regulations.

We conclude, therefore, that your organization is primarily conducting an activity indistinguishable from an ordinary commercial enterprise.

Accordingly, this organization's activities are not charitable and therefore the organization does not qualify for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.


Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code. However, we have concluded that you do not qualify under another subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a Trust, or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to


exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Code.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely,

Steven Miller

Director, Exempt Organizations

Enclosures
Form 6018
Publication 892

Form 6018
(Rev. Aug. 1983)

Department of the Treasury - Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

SEP 07 2001

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown below. I understand that if Section 7428, Declaratory Judgements Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective _____
- ☐ Modification of exemption from section 501(c)() to section 501 (), effective _____
- ☐ Classification as a private foundation described in section 509(a)), effective _____
- ☐ Classification as an private operating foundation described in sections 509(a) and 4942(j)(3), effective for _____
- ☐ Classification as an organization described in section 509(a)(), effective _____
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective _____

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgement under section 7428.

(Signature instructions on Back)

Name of Organization:

Signature and Title

Date

Signature and Title

Date